

Appl. No. 10/629,099
Reply dated May 09, 2005
Reply to Office Action of December 08, 2004

REMARKS/ARGUMENTS

Claims 1-18, 24, and 26-37 are presented for Examiner Torres Velazquez's consideration. Claims 19-23 and 25 are canceled. Claim 1 is amended as shown, and support for the amendment may be found in originally-filed claims 19, 20, 21 and 23 (all now canceled herewith), for example. In addition, claim 13 has been amended to correct an antecedent error as required by the Examiner, claim 16 has been amended to correct an error of typographical nature, and claims 24 and 26 have been amended to correct dependency from now-canceled claims.

Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

Applicants thank Examiner Torres Velazquez for including in the Office Action mailed December 08, 2004 signed copies of the initialed Forms PTO-1449 sent with Applicants' Information Disclosure Statements (IDS) mailed March 05, 2004 and August 09, 2004. However, Applicants have not received initialed copies of the Forms PTO-1449 that were sent with Applicants first IDS mailed on January 13, 2004 and received by the USPTO mailroom on January 16, 2004. Applicants note that that first IDS and the non-US patent documents mailed therewith are available in the PAIR record, but have also attached herewith for the Examiner's convenience copies of the IDS transmittal letter and Forms PTO-1449.

By way of Paragraphs 1 and 2 the Office Action mailed December 08, 2004 the Examiner rejected claim 13 under 35 U.S.C. §112 which, as filed, had an error in the text in that it contained the word "meltblown" in parenthesis and was lacking antecedent basis. Applicants thank the Examiner for pointing out this error and claim 13 has been amended to correct this as shown on the listing of claims filed herewith.

By way of Paragraphs 3 and 4 the Office Action mailed December 08, 2004 the Examiner rejected claims 1-9, 12, 19, 26-31 and 35 under 35 U.S.C. §102(e) as allegedly being anticipated by and thus unpatentable over U.S. Pat. App. Publication 2004/0023586A1 to

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Tilton (hereinafter "Tilton"). Applicants believe the 35 U.S.C. §102(e) rejection over Tilton to now be moot at least due to the amendment of claim 1 including the subject matter of claims 21, 23, because these claims were not made a part of this rejection.

By way of Paragraphs 5 and 6 of the Office Action mailed December 08, 2004, the Examiner rejected claims 10 and 11 under 35 U.S.C. § 102(b) as anticipated by Tilton or alternatively under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over Tilton. Applicants take the recitation of 35 U.S.C. § 102(b) to mean 35 U.S.C. § 102(e). In any event, Applicants believe this rejection over Tilton to now be moot at least due to the amendment of claim 1 including the subject matter of claims 21, 23 which were not made a part of this rejection.

By way of Paragraph 7 of the Office Action mailed December 08, 2004, the Examiner rejected claim 37 under 35 U.S.C. § 102(e) as anticipated by Tilton. Applicants believe this rejection over Tilton to now be moot at least due to the amendment of claim 1 including the subject matter of claims 21, 23 which were not made a part of this rejection.

By way of Paragraph 8 of the Office Action mailed December 08, 2004, the Examiner rejected claims 13-16, 18, and 32-34 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over Tilton, further in view of U.S. Pat. No. 5,841,081 to Thompson (hereinafter "Thompson"). Applicants believe this rejection over Tilton further in view of Thompson to now be moot at least due to the amendment of claim 1 including the subject matter of claims 21, 23 which claims were not made a part of this rejection.

However, Applicants also wish to discuss this combination of Tilton and Thompson because the same combination is used in further claims rejections as discussed below, and because Applicants believe these two references are not properly combinable for the purposes set forth in the Office Action. Tilton relates to an acoustic insulation that is formed as a laminate of layered materials, such as a layer of meltblown fibers on top of

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another fibrous layer, as the Examiner has noted. On the other hand, and in contrast, the Thompson material is a composite mixture formed as an intimate mixture of meltblown fibers with staple fibers. The Thompson material does not appear to be a layered or laminate material of any sort. In addition to being dissimilar materials, the Tilton disclosure summarizes its teachings in [0033], stating that it "utilizes the benefits of a thin layer 14 of meltblown polypropylene fibers to boost the acoustical properties of a fibrous blanket material 10. The porosity achieved in thin, lightweight meltblown layers is ideally suited for improving acoustical performance." Therefore, one skilled in the art would not seek to utilize the teachings from Thompson regarding its thick mixed or composite meltblown/staple fiber material to modify Tilton's intentionally thin, lightweight meltblown layer. Applicants therefore submit that one skilled in the art would not be motivated to combine these two references; rather, one skilled in the art would be motivated against such a combination.

Further, note the Examiner stated that the motivation to modify the Tilton meltblown layer into a multicomponent meltblown layer was "providing the web layer with materials that have an adhesive component and a supporting component arranged in a coextensive side-by-side configuration along the length of the fiber that will provide the layer with sufficient integrity". However, the portion of Thompson cited for this purported motivation is at column 6 line 64 through column 7 line 5, and that text is specifically in regard to multicomponent staple fibers that are mixed in with the meltblown fibers as the Thompson composite is being made, and is not a teaching with respect to multicomponent meltblown fibers at all. Therefore, again Applicants submit that motivation has not been shown for one skilled in the art to combine these two references.

By way of Paragraph 9 of the Office Action mailed December 08, 2004, the Examiner rejected claims 17 and 20-25 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over Tilton, further in view of Thompson as applied above, and still further in view of U.S. Pat. No. 5,759,926 to Pike et al. (hereinafter "Pike et al."). This rejection is traversed to the extent it may apply to the currently presented amended claims. Note that claims 20-23

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and 25 are now canceled but that amended claim 1 now includes subject matter from claims included in this rejection; therefore, this rejection will be discussed with respect to claim 1. Note claims 17 and 24 depend ultimately from claim 1.

The invention as claimed in currently amended claim 1 is directed to an acoustical insulation material comprising a first layer comprising a nonwoven web having a density of at least 50 kg/m³ and comprising thermoplastic fibers having an average fiber diameter of less than about 7 microns, and a second layer comprising a high loft spunbond nonwoven web material comprising crimped multicomponent filaments, and wherein the crimped multicomponent filaments have latent crimp which is activated after the multicomponent filaments are laid down on a forming wire.

As stated above, Applicants submit first that one skilled in the art would not be motivated to combine the dissimilar types of materials taught on the one hand by Tilton, and on the other hand by Thompson, for any of the reasons stated above. Therefore, Applicants respectfully submit that the rejection of under 35 U.S.C. § 103(a) over Tilton, further in view of Thompson, and still further in view of Pike et al. should be withdrawn.

Furthermore, even if one skilled in the art were shown to be motivated to combine the teachings of Tilton and Thompson, Applicants submit one would not still be further motivated to combine Pike et al. with Tilton and Thompson.

Pike et al. teach a readily splittable multicomponent fiber and as the Examiner has noted, Pike et al. state that the fibers may be crimped. The Examiner has stated that one would combine Pike et al. with Tilton and Thompson with the motivation of increasing the bulk or loft of the fabric. However, as taught in Tilton, and as noted by the Examiner throughout the office action, the fibrous blanket of Tilton already has a thickness (bulk) of 0.5 cm to 8 cm and as such can be literally hundreds of times bulkier than the polypropylene meltblown web to which Tilton laminates it, which is only 0.0127 cm to 0.254 cm in bulk or thickness. Therefore, Applicants submit that there is no recognized need to be found in

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Tilton to augment the already thick layer of Tilton by combining it with the teachings of Pike et al.

Furthermore, even if one skilled in the art were to combine Tilton, Thompson and Pike et al., Applicants submit that that combination would still fail to disclose each and every element of the Applicants claims as currently amended. As a specific example, the Examiner has noted that Pike et al. state that their splittable fibers may also be crimped. However, as taught in Pike et al., at column 9 lines 6-30, if those fibers are to be crimped, that crimp is imparted while the fibers are in the drawing unit and before they are laid-down on the forming surface. However, in the instant claims, the multicomponent filaments have latent crimp that is activated after the multicomponent filaments are laid down on a forming wire.

Therefore, as described above, Applicants submit that the Tilton and Thompson references are not properly combinable, that proper motivation has not been shown to combine the Tilton and Thompson references, and further that proper motivation has not been shown to combine the Pike et al. reference with the Tilton and Thompson references. Furthermore, Applicants submit that, even if one combined all three references, that this combination has not been shown to disclose all of the parameters or elements of Applicants' claims as presented. Applicants therefore respectfully submit that the rejection of under 35 U.S.C. § 103(a) over Tilton, further in view of Thompson, and still further in view of Pike et al. should be withdrawn.

By way of Paragraphs 10, 11 and 12 of the Office Action mailed December 08, 2004, the Examiner provisionally rejected claims 1, 2, 32-34 and 36 for obviousness-type double patenting. Applicants believe the provisional double-patenting rejections to now be moot at least due to the amendment of claim 1 including the subject matter of claims 21, 23, because these claims were not made a part of this rejection.

For the reasons stated above, it is respectfully submitted that all of the claims are in form for allowance.

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Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc.
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The undersigned may be reached at: 770-587-8908.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE TRANSMISSION

I, Robert A. Ambrose, hereby certify that on May 09, 2005, this document is being faxed to the United States Patent and Trademark Office, central facsimile machine at (703) 872-9306.

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